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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,355	09/12/2003	Andrew Vaillant	16051 - 10US CC	6741
20988 7590 02/05/2007 OGILVY RENAULT LLP 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			EXAMINER HURT, SHARON L	
			ART UNIT 1648	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/661,355

Applicant(s)

VAILLANT ET AL.

Examiner

Sharon Hurt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 5, 8, 9 and 18-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-7, 10-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendments to the claims filed October 26, 2006 are acknowledged.

Status of the Claims

Claim 1 is currently amended. Claims 5, 8-9, 18-36 are withdrawn. Claims 1-4, 6-7 and 10-17 are pending and under examination on the merits.

Rejections Withdrawn

The rejection of claims 1-4, 6-7 and 10-17 under 35 U.S.C. 102(a & e) as anticipated by or, in the alternative, under 103(a) as obvious over Rein et al. (US Patent No: 6,316,190) has been withdrawn pursuant to applicant's amendments; however, it is noted by the examiner that upon cancellation of the new matter amended to claim 1, the present grounds of rejection will be reinstated.

Specification

The objection to the amendment filed April 24, 2006 under 35 U.S.C. 132(a) as introducing new matter into the disclosure is maintained. Statute 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. Specifically, the added material, which is not supported by the original disclosure is as follows: "the oligonucleotide binds to one or more viral proteins, wherein said viral protein is different from a retroviral nucleocapsid protein, meaning that the viral component is not a retroviral nucleocapsid protein".

Applicant is required to cancel the new matter in the reply to this Office Action.

Response to Arguments

Applicant's arguments filed October 26, 2006 have been fully considered but they are not persuasive. The new matter introduced to the specification in the office action filed April 24, 2006 is **maintained**.

The rejection of claims 1-4, 6-7 and 10-17 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is **maintained**. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), **at the time the application was filed**, had possession of the claimed invention. The new matter rejection of record for the new matter introduced to claim 1 is **maintained**.

Applicant's arguments filed October 26, 2006 have been fully considered but they are not persuasive. Applicant indicated that the amendment to the specification is supported in paragraph 0044. Applicant's argument and the contents of paragraph 0044 in the specification have been fully considered but are not persuasive.

While paragraph 0044 in applicant's specification discloses the Rein et al reference and what it teaches, it does not provide support for applicant's claim amendment adding the negative limitation "and wherein said binding of said oligonucleotide to said viral component occurs principally by a sequence independent mode of action". Applicant's argument that the document of Rein et al. and the teachings of Rein et al. are known and not new and inventive is noted;

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however, the rejection of record is for new matter. Applicant's statement that the negative limitation had the purpose of disclaiming the teachings of Rein et al. is also noted; however, support for the claims must be in the specification at the time of filing. Such support is absent from applicant's original disclosure.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Hurt whose telephone number is 571-272-3334. The examiner can normally be reached on M-F 8:00 - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sharon Hurt

January 25, 2007

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